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Paper No. 4

Dec 24

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OCT 24 1995

In re Application of
Brewer et al.
Application No. 08/484,337
Filed: June 7, 1995
Attorney Docket No. 65850-105
4.15

OFFICE OF PETITIONS
A/C PATENTS
DECISION GRANTING PETITION

This is a decision on the petition filed August 18, 1995,
requesting that the above-identified application be accorded a
filing date of June 7, 1995.

~~On June 7, 1995, the application was deposited.~~

On August 2, 1995, Application Division mailed a Notice stating
that a drawing of Figure 21 described in the specification was
required in compliance with 35 USC 111 and that the filing date
of the application would be the date of receipt of the drawing.

In response, on August 18, 1995, inter alia, the present petition
and the petition fee were filed. Petitioners argue that Figure
21 was present when the papers were filed but was not labelled
legibly and mistakenly obscured. In support of the petition,
three sheets of informal drawings were filed wherein the obscured
numbered figure has been corrected to read "Figure 21".
Petitioners request that the application be accorded a filing
date of June 7, 1995 and the petition fee be refunded.

MPEP 608.01(f) states, in part, that an application is considered
incomplete if it omits drawings which are described in the
specification.

Upon review of the record, 50 sheets of drawings were deposited
on June 7, 1995. The 50 sheets of drawings contained Figures 1-
20 and 22-45 and unnumbered sheets. The drawing contained on the
unnumbered sheets conforms to the description of Figure 21
described in the specification. Therefore, Figure 21 was present
on filing but was unnumbered.

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Application No. 08/484,337

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The Figure 21 label is shown on all three sheets of drawings. Partial views intended to form one complete view must be identified by the same number followed by a capital letter. See 37 CFR 1.84 (u) (1).

Since it has been determined that the drawing of Figure 21 was present on filing, even though it was unnumbered, on petition, the application may be accorded the requested filing date. Amendment of the formal drawings to show the label "Figure 21" will be required in due course. The petition fee will not be refunded since the present petition and petition fee were necessary in view of applicants' filing error.

The petition is granted.

A review of the record reveals that the application still does not include the application filing fees and an oath or declaration in compliance with 37 CFR 1.63. Therefore, the application filing fees and an oath or declaration in compliance with 37 CFR 1.63, identifying the specification to which it is directed (preferably by reference to the above-identified Serial Number and filing date) is required. The surcharge under 37 CFR 1.16(e) is also required.

Applicants are given ONE MONTH from the date of this decision to file the application filing fees, the oath or declaration and the surcharge required above in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The response should be directed to the attention of Application Division.

The application is being returned to Application Division for further processing with a filing date of June 7, 1995, using the application papers filed June 7, 1995 and the oath or declaration filed thereafter, and an indication on the file wrapper that 50 sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the Office of Petitions Staff at (703) 305-9282.

Fred A. Silverberg
Fred A. Silverberg
Special Program Examiner
Office of Special Programs
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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